

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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NOLEN ERVIN,

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Plaintiff,

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vs.

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No. 2:06-CV-02733

MEMPHIS MARINE SERVICE, INC.,  
KINDER MORGAN RIVER TERMINALS,  
LLC, THE PORT OF WEST MEMPHIS,  
and WEPFER MARINE, INC.,

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Defendants,

\*

and

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MEMPHIS MARINE SERVICE, INC.,

\*

Defendant/Third-Party Plaintiff,

\*

vs.

\*

KINDER MORGAN RIVER TERMINALS,  
LLC, and THE PORT OF WEST MEMPHIS,

\*

Defendants/Third-Party Defendants. \*

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**AMENDED RULE 16(b) SCHEDULING ORDER**

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Pursuant to the Status Conference held on June 7, 2010, the parties agree to the following  
dates as the final dates for:

SUBSTITUTING PROPER PLAINTIFF:

**August 6, 2010**

COMPLETING FACT DISCOVERY: **December 31, 2010**

EXPERT DISCLOSURE (Rule 26):

(1) DISCLOSURE OF PLAINTIFF'S  
RULE 26 EXPERT INFORMATION: **January 31, 2011**

(2) DISCLOSURE OF DEFENDANTS'  
RULE 26 EXPERT INFORMATION: **February 28, 2011**

(3) EXPERT WITNESS DEPOSITIONS: **March 31, 2011**

FILING DISPOSITIVE MOTIONS: **May 2, 2011**

This trial is expected to last 3-5 days and is **SET FOR TRIAL** at **9:00 a.m.** on **October 24, 2011**. A pretrial conference is set for **1:30 p.m.** on **October 3, 2011**. A joint pretrial order and proposed jury instructions shall be submitted no later than **5:00 p.m.** on **September 26, 2011**.

Absent good cause shown, the scheduling dates set by this order will not be modified or extended.

The parties should conduct in-depth discovery consultations prior to filing any and all discovery motions. All motions with the exception of motions to dismiss or motions for summary judgment must be accompanied by a certificate of counsel verifying the parties' inability to resolve the dispute. The proposed joint pretrial order should include any stipulated facts, contested issues of fact and/or law, and lists of witnesses and exhibits, and should be signed by the attorneys for all the parties.

**IT IS SO ORDERED**, this 22nd day of June, 2010.

s/Bernice B. Donald \_\_\_\_\_  
**BERNICE BOUIE DONALD**  
**UNITED STATES DISTRICT JUDGE**

APPROVED:

/s/ Howard M. Cohen  
Howard M. Cohen  
O'Bryan Baun Cohen & Kuebler  
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Birmingham, Michigan 48009  
Attorney for Plaintiff

/s/ Gregory W. O'Neal  
Gregory W. O'Neal  
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Attorney for Memphis Marine Service, Inc.

/s/ Thomas J. Smith  
Thomas J. Smith  
Galloway, Johnson, Tompkins, Burr & Smith  
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Attorney for Kinder Morgan River Terminals, LLC

/s/ Frank J. Dantone  
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